

CITY COUNCIL AGENDA ITEM COVER MEMO

Agenda Item Number: 15.j.

Meeting Type: Regular

Meeting Date: Aug 13, 2015

Action Requested By: Legal

Agenda Type: Resolution

Subject Matter:

Ground Lease Agreement for CityCentre Development Project.

Exact Wording for the Agenda:

Resolution authorizing the Mayor to execute a Ground Lease Agreement between the City of Huntsville and CityCentre I, LLC. (Tract 2).

Note: If amendment, Please state title and number of the original

Item to be considered for: Action

Unanimous Consent Required: No

Briefly state why the action is required; why it is recommended; what council action will provide, allow and accomplish and; any other information that might be helpful.

Associated Cost: \$52,700 annual

Budgeted Item: Yes

MAYOR RECOMMENDS OR CONCURS: Yes

Department Head: 

Date: Aug 12, 2015

RESOLUTION NO. 15-_____

WHEREAS the City Council of the City of Huntsville, Alabama, does hereby declare that the Mayor be, and he is hereby authorized to enter into a Ground Lease Agreement by and between the City of Huntsville and CityCentrel, LLC, on behalf of the City of Huntsville, a municipal corporation in the State of Alabama, which said agreement is substantially in words and figures similar to that certain document attached hereto and identified as "Ground Lease Agreement by and between the City of Huntsville and CityCentre I, LLC," consisting of Thirty-nine (39) pages, including Exhibits, and the date of August 13, 2015, appearing on the margin of the first page, together with the signature of the President or President Pro Tem of the City Council, an executed copy of said document being permanently kept on file in the Office of the City Clerk-Treasurer of the City of Huntsville, Alabama.

ADOPTED this the 13th day of August, 2015.

President of the City Council of
the City of Huntsville, Alabama

APPROVED this the 13th day of August, 2015.

Mayor of the City of
Huntsville, Alabama

STATE OF ALABAMA)
MADISON COUNTY)

GROUND LEASE AGREEMENT

THIS GROUND LEASE AGREEMENT (this "Lease") is made and entered into on this 13th day of August, 2015, by and between **CITY OF HUNTSVILLE, ALABAMA**, an Alabama municipal corporation (the "Lessor"), and **CITYCENTRE I LLC**, an Alabama limited liability company (the "Lessee"). As used herein, "Execution Date" shall mean the later of (i) the date this Lease is approved by Lessor's City Council or (ii) execution and delivery of a fully-signed Lease to both parties.

RECITALS

A. Lessor and Lessee have entered into that certain Development Agreement dated of even date herewith (as the same may be amended, modified or restated from time to time, the "Development Agreement") in connection with the construction of a mixed-use development consisting of, at a minimum, (a) a hotel not to exceed 150 hotel rooms with a flag brand reasonably acceptable to Lessor and (b) a retail component with a minimum of 25,000 square feet (collectively, the "Development") on that certain real property owned by Lessor consisting of approximately 2.8 acres situated in Huntsville, Madison County, Alabama, as more particularly depicted as Tract 2 on Exhibit A attached hereto and made a part hereof and legally described on Exhibit A-1 attached hereto and made a part hereof (the "Premises").

B. Lessee has requested that the Lessor lease to the Lessee the Premises, on which the Lessee intends to construct the Development, for the Term hereinafter described.

C. Lessor has deemed it necessary, desirable and in the public interest that the Premises be leased to the Lessee on the terms and conditions specified herein.

D. Pursuant to the Development Agreement, the parties have established certain rights, obligations, responsibilities and duties respecting the ownership, operation, maintenance and use of the Development.

E. This Lease is being entered into pursuant to the provisions of the Development Agreement and shall be interpreted in a manner consistent with the provisions thereof. Capitalized terms used herein without definition shall have the meanings set forth in the Development Agreement.

NOW, THEREFORE, it is hereby agreed as follows:

1. Premises; Term. Lessor does hereby demise and lease unto Lessee the Premises TO HAVE AND TO HOLD the Premises exclusively to Lessee for the period of ninety-nine (99) years, commencing on the Commencement Date (as defined below) and extending for ninety-nine (99) years thereafter (the "Term").

2. Use. During the Term of this Lease, the Premises shall initially be used solely for the construction and operation of the Development pursuant to the Development Plans (as defined in Section 3(e) below) as reasonably approved in writing by Lessor pursuant to Section 3(e) of this Lease. Lessee shall not use, or permit any person to use the Premises or any part thereof for any of the prohibited uses listed on Exhibit E attached hereto and made a part hereof, and Lessee shall at all times during the Term of this Lease comply with and cause all persons using or occupying any part of the Premises to comply with all laws, ordinances, and regulations from time to time applicable thereto and all operations thereon.

3. Inspection Period; Development Plans.

(a) On or before October 1, 2015, Lessor shall provide a boundary survey of the Premises to Lessee.

(b) Lessee shall have ninety (90) days from the Execution Date (the "Inspection Period") as a due diligence period, during which time Lessee shall be permitted to conduct all inspections and investigations necessary in order to determine if the Premises are acceptable to the Lessee. Lessee, its employees, agents or designees shall further have the right of ingress and egress over and through the Premises during normal business hours for the purpose of inspection, appraising, soil and environmental testing, testing for the drainage, surveying, preparing engineering or architectural drawings, and any other activities reasonably necessary to assess the Premises.

(c) Prior to the end of the Inspection Period, Lessee shall provide an ALTA survey of the Premises to Lessor at Lessee's expense, which survey shall include a topographic survey.

(d) Prior to the end of the Inspection Period, Lessor shall have a Phase I Environmental Site Assessment ("Phase I ESA") and an Asbestos Abatement Survey of the Premises issued to Lessee and shall deliver copies thereof to Lessee. If the Phase I ESA recommends that a Phase II Environmental Site Assessment ("Phase II ESA") be performed, then Lessor shall order such Phase II ESA and, if necessary, the Inspection Period shall be extended day-for-day until the results thereof have been delivered to Lessor and Lessee.

(e) Prior to the end of the Inspection Period, Lessee shall develop a mutually agreeable development plan for the Development that is subject to written approval by the Mayor of the City of Huntsville, acting on behalf of Lessor. Within seventy-five (75) days after the Execution Date, Lessee shall submit its proposed construction plans, initially anticipated tenant mix and detailed construction schedule (collectively, the "Development Plans") to Lessor for review and approval. The Development Plans shall include the full and detailed architectural and engineering plans and specifications covering the Development. The Development Plans shall be subject to the approval of the Mayor and all local governmental authorities requiring approval of the work and/or the Development Plans and shall comply with all applicable codes and regulations. Within fifteen (15) days of Lessor's receipt of the complete Development Plans, Lessor shall provide any changes or modifications to Lessee. Lessee shall then, within ten (10) days after receipt of such changes or modifications, resubmit its revised, proposed Development Plans to Lessor. Lessor and Lessee shall continue to review, revise and resubmit the

Development Plans within said periods of time until such Development Plans are approved in writing by the Mayor of the City of Huntsville, acting on behalf of Lessor.

(f) Lessee shall indemnify and hold Lessor harmless from any and all claims, losses or damages incurred in connection with Lessee's inspections of the Premises during the Inspection Period, except for claims, losses or damages arising from the negligence or willful acts of Lessor or its agents, invitees, employees or contractors and the discovery of pre-existing conditions.

(g) In the event Lessee determines, for any reason whatsoever, that the Premises are not acceptable to Lessee, Lessee may terminate this Lease prior to the end of the Inspection Period, by providing written notice of such termination to Lessor. If Lessee so terminates this Lease, all obligations of Lessor and Lessee hereunder shall immediately cease. The "Effective Date" shall be the day immediately following the last day of the Inspection Period. The parties shall execute a document promptly after the Effective Date specifying the Effective Date.

4. Earnest Money. Within five (5) days following the execution of this Lease, Lessee shall deliver to Land Title of Alabama (the "Escrow Agent") the amount of \$7,320.00 (the "Earnest Money"), which Earnest Money shall be applicable to the Base Rent first coming due under this Lease or shall be refunded to Lessee if Lessee elects to terminate this Lease on or before the expiration of the Inspection Period.

5. Rental. Lessee hereby covenants and agrees to pay to Lessor as rent for the Premises (the "Base Rent"), the following:

(a) Commencing on the Commencement Date, the sum of Fifty-Two Thousand Seven Hundred and No/100 Dollars (\$52,700.00) per annum, payable at the rate of Four Thousand Three Hundred Ninety-One and 67/100 Dollars (\$4,391.67) per month, for each year of the Term. As used herein, "Commencement Date" shall mean the earlier to occur of (i) the issuance of a certificate of occupancy for the hotel to be constructed on the Premises or (ii) January 6, 2017. The parties shall execute a document promptly after the Commencement Date specifying the Commencement Date.

(b) It is agreed by Lessor and Lessee that the Base Rent shall be paid in monthly installments, in advance, on the first day of each and every month during the Term of this Lease.

6. Taxes and Assessments.

(a) In addition to the Base Rent, from and after the Delivery Date (as defined in Section 18(a) below), Lessee agrees to pay and discharge all taxes, assessments, rates, charges for revenue, imposts, and all levies general and special, ordinary and extraordinary, of any name, nature and kind whatsoever, which may be fixed, charged, levied, assessed or otherwise imposed upon the Premises or upon any or all buildings or improvements thereon, before same become delinquent, and upon demand of Lessor, the Lessee shall provide evidence showing the payment thereof.

(b) It is understood and agreed, however, that Lessee may, if in good faith it believes any such tax, assessment, lien or charge which it is obligated by the terms of this Lease to pay is invalid, excessive, or unenforceable, in whole or in part, protest against and contest the validity, amount and enforceability thereof. In such case Lessee may, before the date of delinquency of any such tax, assessment, lien or charge, take appropriate action to protest and object thereto, and if such protest and objection be overruled or denied, Lessee may contest or review such denial or ruling by legal proceedings or in such other manner as Lessee deems suitable, which proceeding if instituted shall be conducted solely at Lessee's own expense and free of expense to Lessor. If any such taxes, assessments or charges shall, as a result of such proceedings or otherwise, be reduced, cancelled, set aside or to any extent discharged, the Lessee shall pay the amount that shall be finally assessed or imposed against the Premises, or be adjudicated to be due and payable on any such disputed or contested items. In respect to any such tax, assessment or charge which shall be the subject of a contest under and pursuant to this section, the non-payment thereof shall not be regarded as a breach of any covenant of this Lease so long as Lessee shall comply with the terms of this section. Lessee, in all events, however, shall pay any such charges if payment be required in order to prevent the divesting of Lessor's title or other interest in the Premises.

(c) Taxes assessed during the Term of this Lease, but payable in whole or in installments after the termination of this Lease, and assessments which are covered by bond, shall be adjusted and prorated, and Lessor shall pay the prorated share thereof for the period subsequent to the Term and Lessee shall pay the prorated share thereof for the Term of this Lease.

(d) In the event Lessee fails to pay taxes, assessments, rates, charges for revenue, imposts and levies as provided hereinabove, Lessor shall have the option to pay such taxes, and any sums so expended shall become due as additional rental with interest on said sum at the rate of six percent (6%) per annum until paid.

7. Covenants by Lessor. Lessor hereby covenants and agrees with Lessee that:

(a) Peaceful Possession: Commencing on the Delivery Date (as defined in Section 18 below), Lessee, as long as it pays the rents and performs the covenants and obligations herein contained on its part to be paid and performed, may lawfully, quietly and peaceably occupy and enjoy the Premises during the Term.

(b) Warranty of Title: Lessor warrants and represents that it is the owner in fee simple of the Premises, that it has good, marketable and insurable title thereto, and has the right to make this Lease for the Term and on the conditions herein set forth.

(c) No Legal Proceedings: Lessor warrants and represents that there are no suits or legal proceedings of any kind pending or threatened against Lessor or the Premises that would adversely affect the Premises in any court or before or by any federal, state, county or municipal department, commission, board, bureau or agency or other governmental instrumentality. This includes, without limitation, any condemnation or eminent domain proceedings. Lessee acknowledges that the Lessor is studying and evaluating changes or

proposed changes in traffic patterns and the management of traffic flow in the area surrounding the Premises, and Lessor agrees to take such steps as are necessary to deliver the Premises as depicted on Exhibit A, including without limitation to use its commercially reasonable efforts to cause the modification of the existing right-of-way.

(d) Due Authorization: Lessor warrants and represents that all actions required to authorize the execution and performance of this Lease by Lessor have been taken, and this Lease constitutes a valid and binding agreement, enforceable against Lessor. No person or entity has any right or option to lease, occupy or acquire the Land.

(e) No Violations: Lessor warrants and represents that, to the best of Lessor's knowledge, there is no existing violation of any ordinance, code, law, rule, requirement or regulation applicable to the Premises.

(f) Lease Recognition Agreement: Within thirty (30) days following Lessor's receipt of written request from Lessee, Lessor will enter into a Lease Recognition Agreement in a form reasonably acceptable to Lessor with (i) any retail tenant leasing a minimum of 5,000 square feet in the Development or a national or regional retail tenant who requests the same or (ii) any tenant leasing the hotel portion of the Development. Lessor and Lessee hereby approve the form of Lease Recognition Agreement attached hereto as Exhibit G.

(g) Zoning: To the extent required, Lessor shall use its commercially reasonable efforts to take such actions commencing upon the Execution Date to cause the Premises to be zoned or rezoned for development, use and operation of the Development set forth in the Development Plans.

(h) Incentives: Lessor agrees not to grant any incentives to any other hotel developer that would develop a boutique-style hotel (by way of example, but no means limitation, Canopy by Hilton, AC Marriott, Loft, or Indigo) in that portion of the Huntsville, Alabama central business district that is contiguous to the Von Braun Civic Center that would involve a capital expenditure into such project for parking or related infrastructure. Lessor would not be prohibited from agreeing to perform offsite work including streetscape improvements in connection with any such project. Lessor's agreement set forth herein shall expire upon the earlier to occur of (i) one hundred twenty (120) days following Lessor's delivery of the Option Property to Lessee, or (ii) the issuance of a certificate of occupancy for the hotel on the Premises.

8. Covenants By Lessee. Lessee hereby covenants and agrees with the Lessor that:

(a) Construction of the Development. The Lessee shall construct the Development on the Premises in compliance with the Development Agreement and the plans and specifications approved by Lessor following the construction and development schedule set forth on Exhibit B attached hereto. Lessee shall not construct any improvements on the Premises, or make any alterations to the Development, without the prior written approval of Lessor.

(b) Rent: Lessee shall pay all sums of money agreed to be paid to Lessor as rent or otherwise at the times and in the amount and in the manner as hereinabove provided, and

will faithfully and promptly perform each and every one of the covenants herein contained and provided to be kept and performed by it.

(c) Utilities: From and after the Delivery Date, Lessee shall pay all utility charges used on or arising from the operation of the Premises, including, but not limited to, all charges for gas, electricity, water, garbage and trash collection, and sewerage, during the Term of this Lease.

(d) Upkeep: Lessee will keep the interior and exterior of all buildings erected on the Premises in good, clean and sanitary condition, and shall make all repairs, ordinary as well as extraordinary, structural or otherwise, necessary to keep same in good condition, reasonable wear and tear and damage by fire or other unavoidable casualty only excepted, and at the termination of this Lease, by expiration of time or otherwise, will deliver the Premises and the improvements thereon to Lessor in good condition, reasonable wear and tear and damage by fire or other unavoidable casualties excepted. In the event said building or improvements are damaged or destroyed the same shall be replaced or rebuilt from the proceeds of the insurance as provided in Section 10 hereof.

(e) Waste: Lessee will not commit or suffer any waste of the Premises and will not use, or permit any part of the Premises to be used, for any illegal or immoral purpose, or in such way as to constitute a public nuisance, and it will, at its own expense, observe and comply with all laws, ordinances, and regulations of all duly constituted governmental authorities relating to the Premises or any improvements thereon.

(f) Surrender: Upon the expiration of the Term by expiration of time or otherwise, Lessee will quietly yield, surrender and deliver up possession of the Premises to Lessor.

9. Environmental Indemnification and Compliance. Lessee shall defend, indemnify, and hold Lessor (and its directors, officers, employees and agents) harmless from and against and shall pay and reimburse Lessor for any and all losses, damages, liabilities, claims, causes of action, deficiencies, penalties, fines, and fees (including reasonable attorneys' fees) asserted against Lessor resulting from liabilities arising from the presence of Hazardous or Toxic materials at or upon the Premises due to the negligent or willful act or omission of Lessee, its employees, agents or contractors. The terms "Hazardous" and "Toxic" means any substance or material defined as "hazardous" or "toxic" under any Environmental Law, defined below. Nothing contained in this section shall be construed as an obligation on the part of Lessee to indemnify Lessor against, or to release Lessor from liability for, any environmental claim or liability resulting from misconduct or negligence by Lessor (and its agents), or which exists or arises as a result of activities of parties other than Lessee, its agents or contractors upon the Premises prior to the Delivery Date. "Environmental Law" means any federal, state or local statute, law, ordinance, treaty, convention, regulation, rule, code, order or other requirement or rule of law, now or hereafter in effect and as amended, and any judicial or administrative interpretation thereof, including any judicial or administrative order, consent decree or judgment, relating to the pollution, conservation, or protection of the environment or health, safety or natural resources.

10. Insurance. (a) Prior to the commencement of any construction of the initial improvements, Lessee or Lessee's general contractor, at its sole cost and expense, shall carry insurance coverage as specified below for not less than the following limits, unless a greater amount is required by law, with companies reasonably acceptable to Lessor (which acceptance shall not be unreasonably withheld) licensed in the State wherein the Premises are situated:

(i) Workers' Compensation insurance with statutory limits or if no statutory limits exist, with minimum limits of \$1,000,000 per occurrence. The Workers' Compensation policy will be primary insurance and non-contributing with respect to persons directly engaged in the performance of the initial improvements.

(ii) Employer's Liability insurance with minimum limits of \$2,000,000 for each employee for bodily injury by accident and for each employee for bodily injury by disease.

(iii) Commercial General Liability insurance (excluding Automobile Liability), including liability for the Premises and blanket coverage, Personal and Advertising Injury, Products-Completed Operations (including Broad Form Property Damage), Medical Payments, Contractor's Protective, Bodily Injury, and Property Damage, with minimum limits of \$2,000,000 per occurrence, \$3,000,000 general annual aggregate and completed operations aggregate, \$500,000 personal and advertising injury per occurrence, and \$5,000 medical expense. Such Commercial General Liability insurance shall also contain contractual liability coverage with minimum limits of \$2,000,000 per occurrence, and \$3,000,000 in the aggregate, insuring all liability assumed by Lessee pursuant to this Lease. The Products-Completed Operations coverage shall remain in force and effect for a period of two (2) years following completion of the initial improvements.

(iv) Umbrella/Excess Liability Insurance (excluding Automobile Liability), including coverage for bodily injury, personal injury and property damage liability, with minimum limits of \$10,000,000 per occurrence and annual general aggregate. There will be a three (3) year sunset clause for reporting of claims subsequent to the two (2) year completed operations period.

(v) "All Risk" Builder's Risk Insurance, also known as Course of Construction Insurance, with minimum limits in an amount that will cover full construction costs of the property as of the date it will be completed and ready for occupancy. This coverage shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing, and startup, temporary buildings and debris removal, including demolition occasioned by enforcement of any applicable legal requirements.

(vi) Commercial/Business Automobile Liability insurance with minimum combined single limits of \$2,000,000 per occurrence (bodily injury and property damage liability).

(b) Following completion of construction of the initial improvements, Lessee, at its sole cost and expense, shall carry insurance coverage as specified below for not less than the following limits, unless a greater amount is required by law, with companies reasonably acceptable to Lessor (which acceptance shall not be unreasonably withheld) licensed in the State wherein the Premises are situated:

(i) Workers' Compensation insurance with statutory limits or if no statutory limits exist, with minimum limits of \$1,000,000 per occurrence. The Workers' Compensation policy will be primary insurance and non-contributing with respect to persons directly engaged in the performance of the initial improvements.

(ii) Employer's Liability insurance with minimum limits of \$2,000,000 for each employee for bodily injury by accident and for each employee for bodily injury by disease.

(iii) Commercial General Liability insurance (excluding Automobile Liability), including liability for the Premises and blanket coverage, Personal and Advertising Injury, Products-Completed Operations (including Broad Form Property Damage), Medical Payments, Contractor's Protective, Bodily Injury, and Property Damage, with minimum limits of \$2,000,000 per occurrence, \$3,000,000 general annual aggregate and completed operations aggregate, \$500,000 personal and advertising injury per occurrence, and \$5,000 medical expense. Such Commercial General Liability insurance shall also contain contractual liability coverage with minimum limits of \$2,000,000 per occurrence, and \$3,000,000 in the aggregate, insuring all liability assumed by Lessee pursuant to this Lease. The Products-Completed Operations coverage shall remain in force and effect for a period of two (2) years following completion of the initial improvements.

(iv) Umbrella/Excess Liability Insurance (excluding Automobile Liability), including coverage for bodily injury, personal injury and property damage liability, with minimum limits of \$10,000,000 per occurrence and annual general aggregate. There will be a three (3) year sunset clause for reporting of claims subsequent to the two (2) year completed operations period.

(v) "All Risk" fire and extended coverage insurance, with minimum limits in an amount equal to or not less than the full replacement cost of the buildings located on the Premises, including all alterations, additions and improvements. This coverage shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing, and startup, temporary buildings and debris removal, including demolition occasioned by enforcement of any applicable legal requirements.

(vi) Commercial/Business Automobile Liability insurance with minimum combined single limits of \$2,000,000 per occurrence (bodily injury and property damage liability).

(c) Lessee shall cause, or shall require its general contractor to cause, as applicable, each insurance company, including those of its subcontractors and sub-subcontractors

(i) to issue the insurance on an occurrence basis, (ii) to provide defense coverage for liability insurance policies as an additional benefit and not within the limits of liability, (iii) to issue an endorsement to all policies stating that the policies are primary and that the Lessor's policies are excess, secondary and noncontributing, (iv) to issue an endorsement to all policies to provide a waiver of subrogation in favor of Lessor, and (v) to issue an endorsement to all policies, except the workers' compensation and employer's liability insurance policies, to include Lessor and its employees and agents as "additional insureds." The insurance company or companies shall not exclude from coverage allegations of the negligence, strict liability, or gross negligence, whether sole or otherwise, of the "additional insureds," but coverage may be excluded if there has been a final judicial decision from which there is no further right to appeal of the negligence, strict liability or gross negligence of the "additional insureds." Additionally, the insurance company or companies shall not include any Third Party Beneficiary Exclusion in the policies required herein. Lessee shall provide, or shall cause its general contractor to provide, as applicable, a waiver of subrogation against Lessor and its employees and agents for such coverages that are consistent with Lessee's normal business practices. The policies of insurance required herein will not be canceled without the insurance company first giving Lessor written notice thereof, at least thirty (30) days before any such cancellation shall become effective. Lessee shall provide, and shall require its general contractor to provide, as applicable, to Lessor before the commencement of construction of the initial improvements, and at least thirty (30) days prior to the expiration of any policies of insurance in effect during the Term, certificates of insurance evidencing all required insurance in this Lease.

11. Indemnity.

(a) The Lessee shall be in exclusive control and possession of the Development and Premises during the Term, and the Lessor shall not be liable for any damage or destruction to any property, or injury or death to any person happening on, in or about the Development or the Premises during the Term. The Lessee releases the Lessor (and its agents) from and shall indemnify and hold the Lessor (and its agents) harmless against, any and all claims and liabilities of any character or nature whatsoever asserted by or on behalf of any person, firm, corporation, or governmental authority arising out of, resulting from, or in any way connected with the Development or the Premises during the Term, including, without limiting the generality of the foregoing: obligations for the payment of any costs of the Development, any improvements, any destruction of or damage to property or any injury to or death of any person or persons caused by or related to the Development or the Premises, any claims relating to the acquisition, construction, and installation of the Development, the leasing of the Premises to the Lessee, and the condition, use, possession, or management of the Development during the Term, and, further, the Lessee will also pay or reimburse all legal or other expenses reasonably incurred by the Lessor (and its employees and agents) in connection with the investigation or defense of any action or proceeding, whether or not resulting in liability, with respect to any claim, liability or loss in respect of which indemnity may be sought against the Lessee under the provisions of this section.

(b) Notwithstanding the above, nothing contained in this section shall be construed to require the Lessee to indemnify the Lessor or its agents, against, or to release the Lessor or its agents from liability for, any claim or liability resulting from (i) the inaccuracy of any representation or warranties of the Lessor contained herein; (ii) the willful misconduct or

negligence of the Lessor or its agents, employees or contractors; or (iii) any claim based on any act or omission prior to the date of this Lease which was not caused by the Lessee or its agents or contractors.

(c) The Lessor releases the Lessee (and its agents) from any and all claims and liabilities of any character or nature whatsoever asserted by or on behalf of any person, firm, corporation, or governmental authority resulting from the willful misconduct or negligence of Lessor or its agents, employees or contractors.

(d) The obligations of the Lessee under this section and any other obligation of the Lessee to indemnify and hold the Lessor harmless shall survive any termination or expiration of this Lease.

12. Assignment, Subletting or Licensing. Lessee shall not assign this Lease or the leasehold interest created hereby, without the prior written consent of the Lessor, which consent will not be unreasonably withheld, conditioned or delayed. After construction of the Development is complete, Lessor agrees that it will grant its consent to an assignment or transfer so long as the Lessor, in its reasonable discretion and determination, is satisfied that the proposed assignee/transferee has the financial condition, experience, expertise, capability and qualifications to operate and manage the Development and the proposed assignee/transferee assumes the obligations of the Lessee under this Lease in writing. Lessee shall have the right to sublet the Premises at all times without the prior consent of Lessor.

13. Net Lease. In addition to payment of all rents, taxes, assessments and governmental impositions, as herein provided, Lessee shall pay all operating costs and expenses, it being the intent of this Lease that Lessor is to receive the rental above specified as net and clear of all costs and charges arising from or relating to the Premises and that Lessee is to pay all charges and expenses of every nature that may be imposed or incurred through the operation of the Premises and its appurtenances in any manner during the Term of this Lease.

14. Lessor Default or Breach. Lessor will be in default under this Lease if Lessor fails to perform any obligation under this Lease or the Development Agreement within thirty (30) days after receipt of written notice from Lessee specifying the nature of the default [or such longer period as may be required in order to effect the cure, provided Lessor commences the cure within the thirty (30) day period and diligently prosecutes the cure to completion] or if Lessor breaches, in any material respect, any of the representations or warranties given in this Lease. Lessee understands, acknowledges and agrees that the obligations of the Lessor as set forth herein are limited by the limitations imposed on public bodies, municipalities and public corporations by the Constitution of the State of Alabama and laws affecting the use and maintenance of public property. Anything in this Lease to the contrary notwithstanding, whether express or implied, in the event of a default by Lessor hereunder, the sole and exclusive remedy of Lessee shall be specific performance, and Lessee shall not be entitled to any other damages whatsoever, including, without limitation, incidental or consequential damages, whether arising at law or in equity.

15. Lessee Default or Breach. It is agreed by and between the parties hereto that: (i) if Lessee shall fail to make any payment of rents or taxes, assessments, insurance

premiums, water rates, or any other sum herein stipulated and agreed to be paid or kept, at the time same is required to be paid under the provisions of this Lease, or (ii) if Lessee shall fail to keep and perform any other covenant, condition or agreement, herein provided on the part of Lessee to be performed; then, and in such case, the Lessor may serve upon Lessee written notice of such default; and if such default shall then continue without being wholly remedied for a period of fifteen (15) days after the service of such notice, or in the event of a breach other than the payment of money, Lessee shall not have commenced the remedying of such default within the thirty (30) day period subsequent to written notice and shall not diligently prosecute compliance to final termination, then it shall and may be lawful for Lessor, upon written notice to Lessee, to exercise any remedies available for such default at law or in equity; provided, however, that Lessor shall not declare said Term ended or re-enter and re-possess the Premises and the building and improvements situated thereon, or any part thereof, either with or without process of law, unless a court of competent jurisdiction renders a final, non-appealable judgment in favor of Lessor with respect to such default and Lessee fails to cure such default within fifteen (15) days following the entry of such judgment. Lessee does in such event, hereby waive any demand for possession of the Premises, and any and all buildings and improvements then situated thereon, and Lessee covenants and agrees, upon the termination of the Term at the election of Lessor, or in any other way, to immediately surrender and deliver up the Premises and property peaceably to Lessor, or the agents or attorneys of Lessor, immediately upon the termination of the Term, and this Lease shall become void and of no further effect, and Lessor may hold and retain the Premises and all buildings and improvements thereon as of its first or former estate, and this Lease shall be forfeited to the Lessor, and Lessor may bring suit for and collect all of the past-due rents, taxes and assessments.

16. Waiver. No waiver by the Lessor or Lessee of any default or breach of any covenant, condition, or stipulation herein contained shall be treated as a waiver of any subsequent default or breach of the same or any other covenant, condition or stipulation hereof.

17. Successors and Assigns. The words "Lessor" and "Lessee" as hereinabove used in this Lease shall mean Lessor and Lessee as mentioned herein, and also, where not inhibited by the context of this agreement, shall mean their respective successors and assigns.

18. Lessor's Work.

(a) Lessor shall perform Lessor's On-site Work (as defined below) and deliver the Premises to Lessee within ninety (90) days following the expiration of the Inspection Period (the "Delivery Date"). As a condition of the Delivery Date, Lessor shall, at its sole cost and expense, be responsible for the demolition and removal of any and all existing structures, improvements, footings, foundations and construction debris from the Premises ("Lessor's On-site Work") on or before said Delivery Date. As part of Lessor's On-site Work, Lessor shall cause the existing utilities lines to be cut and capped at the property line of the Premises, but existing utility lines within the Premises may be abandoned rather than removed. Following the delivery of the Premises by Lessor in the condition described herein, Lessee shall be responsible, at Lessee's expense, for any grading and/or compaction work deemed necessary by Lessee to cause the Premises to be in a "pad ready" condition for construction and to construct the Development.

(b) Lessor shall also install or cause to be installed, at its sole cost and expense, the following off-site improvements (collectively, "Lessor's Offsite Work"): 1) on or before the Delivery Date, Lessor shall make all utilities available to the property line of the Premises as determined by Lessor, which may be in their existing location to the extent such utilities are already available at the property line, including electricity, gas, water, sanitary sewer; (2) on or before twelve (12) months after the Execution Date, Lessor shall construct all streetscape and hardscape features along the perimeter of the Premises and along all public roadways bordering the Premises including but not limited to the installation of sidewalks, irrigation, landscaping, hardscapes, civic art, decorative lighting and related improvements, all as determined by Lessor in its reasonable discretion after consultation with Lessee during the design process. Lessor will use commercially reasonable efforts to coordinate with Lessee to accelerate such portions of Lessor's Offsite Work to the extent necessary for the opening of businesses to the public upon construction of such building on the Premises. Lessee shall complete connection of the Lessee's buildings to all utilities at Lessee's expense and shall be responsible for all utility work within the Premises.

19. Bankruptcy or Insolvency. Lessor reserves the right to terminate this Lease by written notice to Lessee upon the occurrence of any one or more of the following contingencies: (a) the filing of a petition by or against the then Lessee or its assignee for adjudication as a bankrupt under the United States Bankruptcy Act, as now or hereafter amended or supplemented, or for arrangement within the meaning of Chapter XI of said Bankruptcy Act, or the filing of any petition by or against the then Lessee under any future bankruptcy act for the same or similar relief; (b) the commencement of any action or proceeding for the appointment of a receiver or trustee of the property of the then Lessee; (c) the taking possession of the property of the then Lessee or its assignee by any governmental officer or agency pursuant to statutory authority; (d) the making by the then Lessee of an assignment for the benefit of creditors; (e) the taking from the then Lessee of the term hereby leased, or the seizure or levy thereon under judgment, decree, attachment, execution or other judicial proceedings; provided, that if either (a), (b), (c) or (e) shall be involuntary on the part of the then Lessee, the event in question shall not give Lessor any right to terminate this Lease if the event be removed by the Lessee within ninety (90) days.

20. Notice. All notices, requests, demands or other communications required or permitted under this Lease shall be in writing and delivered either: (i) personally; (ii) by certified or registered mail, return receipt requested, postage prepaid; (iii) by a recognized overnight courier service (such as Fed Ex); or (iv) by facsimile transmission made during normal business hours with a copy to follow by registered or certified mail, return receipt requested, postage prepaid or by overnight courier service, addressed as follows:

If to Lessor:	City of Huntsville
	Attention: Mayor
	308 Fountain Circle
	P.O. Box 308
	Huntsville, Alabama 35804
	Fax: (256) 427-5121

With a copy to:

City of Huntsville
Attention: City Attorney
308 Fountain Circle
P.O. Box 308
Huntsville, Alabama 35804
Fax: (256) 427-5121

With a copy to:

S. Roderick Kanter, Esq.
Bradley Arant Boult Cummings LLP
One Federal Place
1819 5th Avenue North
Birmingham, AL 35203
Phone: 205-521-8517
Fax: 205-488-6517

If to Lessee:

CityCentre I LLC
4245 Balmoral Drive, Suite 204
Huntsville, AL 35801
Attention: Mr. Remy Gross, III
Phone: 256-319-3502
Fax: 855-335-9636

With a copy to:

Jeremy D. Cohen, Esq.
Hartman Simons & Wood LLP
6400 Powers Ferry Road NW, Suite 400
Atlanta, Georgia 30339
Phone: 770-951-6788
Fax: 770.303.1172

All notices given in accordance with the terms hereof shall be deemed received on the next business day if sent by overnight courier, on the same day if sent by facsimile before 5 P.M. (Central Standard Time) on a business day, on the third (3rd) business day following deposit with the United States Mail as a registered or certified matter with postage prepaid, or when delivered personally or otherwise received. Either party hereto may change the address for receiving notices, requests, demands or other communication by notice sent in accordance with the terms of this Section 20.

21. Waiver of Subrogation. All insurance policies carried by either party covering the Premises, including but not limited to contents, fire and casualty insurance, shall expressly waive any right on the part of the insurer against the other party. The parties agree that their policies will include such waiver clause or endorsement so long as the same shall be

obtainable without extra cost, or if extra cost shall be charged therefor, so long as the other party pays such extra cost. If extra cost shall be chargeable therefor, each party shall advise the other thereof and of the amount of the extra cost, and the other party, at its election, may pay the same, but shall not be obligated so to do.

22. Eminent Domain.

(a) Lessor will notify Lessee in writing within thirty (30) days of Lessor's receipt of notice of any planned Taking (as defined below) of the Premises. If the whole of the Premises shall be taken for any public or quasi-public use under any statute or by right of eminent domain or by private purchase in lieu thereof (a "Taking"), then this Lease shall automatically terminate as of the date that possession has been taken. If only a part of the Premises shall be so taken (or so purchased), Lessee shall have the right, but not the obligation, to terminate this Lease by giving written notice of termination to Lessor on or prior to the date one hundred and eighty (180) days after the date of such taking (or purchase), and upon the giving of such a notice of termination the term of this Lease shall expire and come to an end on the last day of the calendar month in which such notice shall be given, with the same force and effect as if said day had been originally fixed herein as the expiration date of the Term of this Lease, or any renewals or extensions thereof. In the event the Lease shall terminate or shall be terminated, the rental shall, if and when necessary, be adjusted to the day of the taking (or purchase) and neither party shall have any further rights or liabilities hereunder.

(b) In the event of such a taking (or such purchase) whereby this Lease shall terminate or shall be terminated under the provisions of sub-paragraph (a) of this said section, then the parties hereto agree to cooperate in applying for and in prosecuting any claim for such taking, and further agree that the aggregate award, net after deducting all expenses and costs, including attorneys' fees, incurred in connection herewith, payable to both Lessor and Lessee, shall be apportioned between Lessor and Lessee, but if they cannot agree upon such apportionment, then the same shall be made by the arbitration of three (3) persons who will be either qualified real estate appraisers or persons conversant with real estate values, to whom such dispute shall be referred. One of such persons will be nominated by Lessor, one will be nominated by Lessee, and the third will be appointed by writing under the hand of the two so nominated before the arbitration is proceeded with, and the decision of any two of the three arbitrators shall be binding; and, if either Lessor or Lessee shall refuse or neglect to appoint an arbitrator after the other shall have appointed an arbitrator, then the party so appointing an arbitrator shall notify the other party that he must appoint an arbitrator within ten (10) days after the receipt of such notice, and if after the expiration of the ten day period from the date of the mailing of said letter, all such letters to be mailed by registered mail, postage prepaid, return receipt requested, the other party still has not appointed an arbitrator, the party so appointing an arbitrator must again notify the other party that he still remains in default through his failure to so appoint an arbitrator, and after a five (5) day period from the date of the mailing of said letter, and upon such other party's failure again to so appoint an arbitrator, then upon such failure the party making the request and who shall have himself appointed an arbitrator, may appoint another arbitrator to act on behalf of the party so failing to appoint. The arbitrator so appointed may then proceed and act in all respects as if he were appointed by the person so failing to make such appointment. The determination to be rendered by the arbitrators will be made within ten (10) days after their selection, but in no event later than ten (10) days prior to the date each

option to extend shall become effective, and the decision of said arbitrators shall be final and binding upon Lessor and Lessee for the purpose of computing said annual rents, except in no event shall said annual rents be less than the annual rents for the then existing term of this Lease. Lessor and Lessee agree that the fees of said arbitrators shall be assessed equally against Lessee and Lessor; PROVIDED HOWEVER, that if two arbitrators should be appointed and then fail to agree upon the selection of a third arbitrator within ten (10) days after the selection of the last of the two arbitrators, then Lessor and Lessee shall each appoint a different arbitrator and the above process shall be repeated until three (3) arbitrators are appointed. To be eligible for appointment to the panel, a person must be a disinterested individual whose place of business is in Madison County, Alabama, and also be conversant with real estate values. Any decision rendered by the arbitrators shall be reduced to writing, and copies furnished to Lessor and Lessee who shall affix copies to this Lease, and thereafter the decision of the arbitrators shall become a binding part of the Lease itself.

If only a part of the Premises shall be so taken (or so purchased) so that the provisions of sub-paragraph (a) hereof do not apply, the rights, duties and obligations of Lessor and Lessee in the Premises shall be determined, if they cannot agree, by the arbitration of three (3) persons to be nominated and appointed as hereinbefore provided, to whom such determination shall be referred, who shall have full power and authority to make any determination which they shall deem just and equitable, taking into consideration the quantity and value of the land taken, the extent of the injury thereby caused to the buildings, the cost of restoring the buildings and the value of the buildings if restored, the period of the unexpired term of this Lease, and all other facts and circumstances which the arbitrators shall deem material, including full power and authority to determine, among other things, as they shall deem just and equitable, any one or more of the following matters, viz: that the damages awarded shall be apportioned between Lessor and Lessee in the proportion in which the appraised value of their respective estates bear to each other, or to the value of the property as a whole; that the whole or any part of the rent shall be abated from the time of taking thenceforth, or for a lesser time; that the Lease shall be otherwise modified; and to award and direct specific performance of any one or more of the said, or other, matters which they shall determine, to the end that the rights, duties and obligations of the parties shall be justly and equitably and finally determined upon all the facts and circumstances as they shall then exist; PROVIDED, HOWEVER, notwithstanding anything to the contrary herein contained, if any part of the Premises shall be so taken (or so purchased), and this Lease shall not be terminated under the provisions of sub-paragraph (a) of this section, then Lessee, at its own expense, shall make all repairs to the affected buildings and improvements on the Premises to the extent necessary to restore the same to a complete architectural unit.

23. Covenants To Run with Land. It is hereby covenanted and agreed between the parties hereto that all covenants, conditions, agreements and undertakings in this Lease contained shall extend and inure to the benefit of and be binding upon the respective heirs, executors, administrators, successors and assigns of the respective parties hereto, the same as if they were in every case named and expressed and the same shall be construed as covenants running with the land. All terms and words used in this Lease, regardless of the number and gender in which they are used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the context or sense of this Lease or any paragraph or clause herein may require, the same as if such words had been

fully and properly written in the required number and gender. Where the words "lease term" are used herein, they shall be deemed to include not only the Initial Term of this Lease, but also any Extension Terms hereunder.

24. Title to Buildings. Title to any building erected on the Premises at any time by Lessee, until the expiration or sooner termination of this Lease, or any extensions hereof, shall remain in Lessee, and Lessee alone shall be entitled to claim any and all depreciation in connection with its federal or state income tax returns.

25. All Inclusive Nature of Agreement. This Lease and the Development Agreement embody the entire contract of the parties hereto with respect to the demise of the Premises, and this Lease shall not be altered, changed or modified in any respect, except by an instrument of equal dignity to this instrument.

26. Recording. On the Effective Date, Lessor and Lessee shall execute and record a Memorandum of Lease, which shall make reference to the terms hereof. Lessee shall bear the expense of all recording tax associated with the recordation of any such Memorandum of Lease.

27. Brokers. Lessor and Lessee each hereby represent and warrant to the other party that it has not utilized the services of any real estate broker or agent in connection with this Lease.

28. Intentionally Omitted.

29. Governing Law. This Lease is governed by, and must be interpreted under, the laws of the State of Alabama. Any suit arising from or relating to this Lease must be brought in Madison County, Alabama. Lessor and Lessee waive the right to bring suit elsewhere.

30. Business Days. In the event any period of time provided for in this Lease ends on a day other than a business day on which banks are generally open for a full day for business, such ending date shall automatically be extended to the next business day.

31. Counterparts. This Lease may be executed in one or more counterparts, each of which shall be deemed an original and taken together shall constitute one and the same document. This Lease may be executed and delivered by facsimile or electronic signature with the same force and effect as of original signature pages have been delivered to each of the parties hereto.

32. Leasehold Mortgages.

(a) Lessee may encumber Lessee's leasehold estate by a mortgage, deed to secure debt or similar financing instrument (being a "Leasehold Mortgage" and the holder being a "Leasehold Mortgagee"). A Leasehold Mortgage will not constitute an assignment or transfer of this Lease, nor will the Leasehold Mortgagee be deemed an assignee of this Lease. Lessee will also have the right to obtain financing by a "sale and leaseback" transaction (i.e., an

assignment of Lessee's leasehold estate under this Lease simultaneously with a sublease of all of the Premises to Lessee).

(b) With respect to any Leasehold Mortgagee as to which Lessor has been given notice, the following will apply notwithstanding any other provision of this Lease to the contrary:

(i) No voluntary termination by Lessee of this Lease will be effective unless consented to in writing by the Leasehold Mortgagee. Any material amendment or material modification of this Lease or the exercise by Lessee of any option to terminate this Lease without the written consent of the Leasehold Mortgagee will be voidable as against the Leasehold Mortgagee at its option. If any Leasehold Mortgagee fails to respond within thirty (30) days after receipt of written request for consent, the Leasehold Mortgagee will be deemed to have granted its consent to such request provided that the notice clearly states, in all capital letters, "FAILURE TO RESPOND IN 30 DAYS WILL BE DEEMED CONSENT."

(ii) Lessor will deliver any and all notices of default or notices regarding amendments to the Lease given to Lessee simultaneously to any Leasehold Mortgagee at the address provided to Lessor by Lessee.

(iii) A Leasehold Mortgagee will have, in addition to Lessee's cure period, an additional ten (10) business days to cure monetary defaults and an additional thirty (30) days to cure non-monetary defaults. Lessor will accept performance of any and all of Lessee's obligations under this Lease from any Leasehold Mortgagee.

(iv) If it is necessary for a Leasehold Mortgagee to obtain possession of the Premises to effect a cure, then Lessor will not commence any proceeding or action to terminate this Lease if (a) the Leasehold Mortgagee informs Lessor within the cure period that the Leasehold Mortgagee has taken steps to foreclose its Leasehold Mortgage or (as applicable) to cancel its sublease or other financing arrangement as necessary to obtain possession of the Premises, (b) the rent is paid and all other provisions and requirements of this Lease which are capable of being observed and performed without obtaining possession of the Premises are observed and performed, and (c) the Leasehold Mortgagee is diligently prosecuting the foreclosure or cancellation.

(v) If Lessor terminates this Lease due to any default by Lessee, Lessor will enter into a new lease with any Leasehold Mortgagee (or its nominee, subject to the provisions of Section 12) for the remainder of the Term of this Lease, and on the then remaining terms and provisions of this Lease, provided the Leasehold Mortgagee must make written request for the new lease no later than sixty (60) days after the date of the termination of this Lease, and the request must be accompanied by payment to Lessor of all sums due to Lessor under this Lease.

(vi) No Leasehold Mortgagee will become liable under this Lease unless and until it becomes the owner of the leasehold estate. Any assignment of this Lease by a Leasehold Mortgagee, its nominee, or by any owner of the leasehold estate whose interest is acquired by, through or under any Leasehold Mortgage, will release the assignor from liability under this Lease arising from and after the date of such assignment (provided that its assignee assumes this Lease in writing).

(vii) If there are two (2) or more Leasehold Mortgages, the holder of the Leasehold Mortgage recorded prior in time will be first vested with the rights under this Section 32. All of the provisions contained in this Lease with respect to Leasehold Mortgages and the rights of Leasehold Mortgagees will survive the termination of this Lease for any periods of time as is expressly provided for in this Lease as necessary to effectuate the rights granted to all Leasehold Mortgagees by the provisions of this Lease.

(viii) Nothing contained in this Lease will require any Leasehold Mortgagee or its nominee to cure any default by Lessee.

33. Force Majeure. If Lessor or Lessee is delayed, hindered or prevented from the performance of any act required under this Lease (other than the payment of any and all rent due under this Lease) by reason of strikes, lock-outs, labor troubles, inability to procure materials, failure of power, restrictive governmental laws or regulations, riots, terrorist acts, public health concerns not in the control of Lessee that materially interfere with Lessee's operations at the Premises, insurrection, the act, failure to act or default of the other party, war or any reason beyond their control, then performance of the act will be excused for the period of the delay and the period for the performance of any such act will be extended for a period equivalent to the period of such delay. Lack of funds will not be a basis for avoidance or delay of any obligation under this Lease.

34. Estoppel Certificates. Either party will, without charge, within thirty (30) days after written request of the other, deliver an estoppel certificate in the form attached as Exhibit C or a commercially reasonable variation thereof. Any such certificate may be relied upon by the party requesting it and any other person, firm or corporation to whom the same is certified, and the contents of the certificate will be binding on the party executing the certificate.

35. Non-Disturbance. Notwithstanding the foregoing, Lessee's obligation to subordinate or attorn this Lease to any future mortgage or ground lease or attorn to any ground lessor or mortgagee shall be expressly conditioned upon Lessee receiving a commercially reasonable non-disturbance agreement in form and substance reasonably satisfactory to Lessee, which shall provide that the holder of such mortgage or such ground lessor shall not disturb this Lease or Lessee's rights hereunder so long as Lessee is not in default hereunder past the expiration of any applicable notice and cure periods.

36. Phase II Option. Lessor hereby grants to Lessee the exclusive and irrevocable right and option (the "Option") to lease (the "Lease Option") or purchase (the "Purchase Option") that certain tract of land containing approximately 2.5 acres and labeled on

Exhibit A as “Tract 3” (the “Option Property”) and legally described on Exhibit D attached hereto and by this reference made a part hereof. This Option is subject to Lessor’s relocation of the existing aquatic center at Lessor’s expense from the Option Property (the “Relocation”) to a nearby location acceptable to Lessor (the “Replacement Property”) as further set forth below.

(a) Term of Option. The term of the Option (the “Option Term”) shall commence on the later to occur of (i) the City Approval (as hereinafter defined); or (ii) the Effective Date, and shall expire on the earlier of (a) the second (2nd) anniversary of the date of the issuance of certificate of occupancy for the first building in the Premises; or (b) October 1, 2018.

(b) City Approval. Lessor covenants and agrees that, on or before ninety (90) days following the Execution Date (the “Relocation Approval Date”), Lessor shall use good faith efforts to pursue Lessor’s City Council and any other necessary governmental agency to approve the Relocation, including the funding thereof, the construction contract for the Relocation, and time periods for the commencement of the Relocation and delivery of the Option Property to Lessee (the “City Approval”). Upon obtaining the City Approval, Lessor shall provide a letter to Lessee confirming the date of the Relocation. In the event that such Relocation has not been so approved on or before the Relocation Approval Date, then Lessee will determine if it still wishes to proceed with the Development by delivering written notice to Lessor on or before the later to occur of (i) the expiration of the Inspection Period or (ii) thirty (30) days after the Relocation Date. In the event Lessee elects to so terminate the Lease, Escrow Agent shall promptly return the Earnest Money to Lessee.

(c) Exercise of Option. Lessee may exercise the Option at any time during the Option Term by (i) delivering written notice to Lessor prior to the expiration of the Option Term stating whether the Lease Option or the Purchase Option is being exercised and (ii) delivering an additional earnest money deposit in the amount of \$60,000.00 (the “Option Earnest Money”) to the Escrow Agent concurrently with such notice (the date of the later to occur being, the “Option Exercise Date”). The Option Earnest Money shall be applied to the annual rent owed for the Option Property for the first (1st) year of the term of the lease of the Option Property or the purchase price for the Option Property, as appropriate.

Within thirty (30) days following the Option Exercise Date if the Purchase Option is exercised, Lessor and Lessee will enter into a separate purchase and sale agreement (the “Purchase and Sale Agreement”) reflecting a purchase price of One Million and No/100 Dollars (\$1,000,000.00) and containing other terms reasonably acceptable to Lessor and Lessee, which shall include a repurchase option in favor of the Lessor (the “Repurchase Option”), and a right of first refusal in favor of the Lessor (the “ROFR”). The Repurchase Option and ROFR shall be recorded with the deed conveying the Option Property to Lessee in the records of the Probate Judge of Madison County, Alabama.

The Repurchase Option shall provide that, in the event that Lessee has not commenced construction of a hotel on the Option Property within twenty-four (24) months from the date of closing on the purchase and sale of the Option Property from Lessor to Lessee, then Lessor shall have the ongoing right to repurchase the Option Property in exchange for a purchase price in the amount of \$1,000,000 at any time prior to Lessee’s commencement of construction

of the hotel on the Option Property. Lessee agrees that once Lessee commences construction of such hotel on the Option Property, Lessee agrees to diligently prosecute the same to completion.

The ROFR shall provide that, in the event Lessee desires to sell the Option Property prior to the commencement of construction of a hotel on the Option Property pursuant to an offer received by Lessee, Lessor shall first have the right of first refusal to repurchase the Option Property in exchange for the purchase price in the amount of \$1,000,000. The ROFR shall provide that Lessor shall have thirty (30) days from the date of notice from Lessee with the triggering offer in which to notify Lessee that Lessor has elected to exercise the ROFR. In such event, the parties shall work in good faith and diligently to agree upon the terms of a purchase and sale agreement for the sale of the Option Property from Lessee to Lessor within thirty (30) days following Lessor's election to purchase the Option Property pursuant to the terms set forth in the offer received by Lessee.

Within thirty (30) days following the Option Exercise Date if the Lease Option is exercised, Lessor and Lessee will enter into a separate ground lease for the Option Property, with terms substantially the same as those contained in this Lease (the "Option Property Lease"). The Option Property Lease shall provide that commencing on the Option Property Commencement Date, Lessee shall pay to Lessor \$60,000 per year for each year during the Option Property Lease Term, provided that the first year's rent shall be paid from the Option Earnest Money. As used herein, "Option Property Commencement Date" shall mean the earlier to occur of (i) the issuance of a certificate of occupancy for the first building constructed on the Option Property or (ii) twelve (12) months following the completion of Lessor's Option Property Work (as defined below) and delivery of the Option Property to Lessee. As used herein, the "Option Property Lease Term" shall be the difference, as of the Option Property Commencement Date, between ninety-nine (99) years and the amount of time that has elapsed since the Commencement Date of this Lease, such that the Option Property Lease Term and the Term of this Lease shall expire on the same date.

(d) Lessor's Responsibility with Option Property. As of the Execution Date, the Option Property consists of (i) the Scruggs Center Community Center improvements located on that portion of the Option Property depicted on Exhibit D-1 attached hereto (the "Community Center Property"), and (ii) the aquatic center improvements located on that portion of the Option Property depicted on Exhibit D-1 attached hereto (the "Aquatics Center Property").

(1) Provided that Lessee exercises the Option during the Option Term, then Lessor shall use commercially reasonable efforts, at its sole cost and expense, to demolish and remove any and all existing structures, improvements, utilities lines, footings, foundations and construction debris from the Community Center Property (the "Lessor's Community Center Property Work") within ninety (90) days following the closing, if the Purchase Option is exercised, or within ninety (90) days following full execution of the separate ground lease, if the Lease Option is exercised.

(2) Provided that Lessee exercises the Option during the Option Term, then Lessor shall use commercially reasonable efforts, at its sole cost and expense, to demolish and remove any and all existing structures, improvements,

utilities lines, footings, foundations and construction debris from the Aquatics Center Property (the "Lessor's Aquatic Center Property Work", and together with Lessor's Community Center Property Work, "Lessor's Option Property Work") on or before February 28, 2017, which date shall be extended as long as reasonably necessary for Lessor to complete Lessor's Aquatic Center Property Work so long as Lessor is proceeding diligently and in good faith to perform the Relocation. The parties acknowledge that no closure or demolition of existing structures or facilities on the Aquatics Center Property shall commence until Lessor has constructed replacement facilities on an alternate site.

(e) In the event Lessee exercises the Option prior to the Relocation, the Lessor and Lessee shall enter into a sublease (in the event the Lease Option is exercised) or a lease (in the event the Purchase Option is exercised) to provide that Lessor shall maintain possession of the Aquatic Center Property in exchange for \$1.00 per year rental payable from Lessor to Lessee until such time as the Relocation is complete. The terms of such lease or sublease, as applicable, shall be negotiated by the parties in good faith prior to the closing on the Option and shall provide, among other things, (i) for sufficient easements, parking and other rights necessary or desirable by Lessor for the operations of the Aquatics Center Property, and (ii) that Lessee's construction and operations of its improvements on the Community Center Property do not interfere with the operations of the Aquatics Center Property. In the event the parties do not agree upon the terms of such lease or sublease, as applicable, then the Option shall be deemed not exercised under the terms of this Lease.

37. Culvert Parking Easement. Lessor hereby grants to Lessee a non-exclusive easement on, over, across and through a portion of the culvert located adjacent to the Phase I Development Area within the area shown crosshatched on Exhibit F attached hereto and made a part hereof (the "Culvert Easement Area") for the construction, maintenance and use of a parking area within the Culvert Easement Area. Lessee shall deliver to Lessor plans for the proposed location, design and layout of such parking within the Culvert Easement Area. Lessor shall grant or deny such consent in its reasonable discretion within thirty (30) days after receipt. Upon receipt of Lessor's approval of Lessee's plans for the parking improvements in the Culvert Easement Area, Lessee, at its sole cost and expense, shall promptly commence construction of such parking improvements and diligently pursue the same to completion in accordance with the approved plans. Upon completion of construction and for the remainder of the term of the easement, Lessee, at its sole cost and expense, shall maintain such parking improvements in good, clean and sanitary condition, and shall make all repairs, ordinary as well as extraordinary, to keep the same in good condition, reasonable wear and tear excepted. The term of the easement granted in this Section 37 shall expire upon the expiration of the Term of the Lease. The terms of this Section 37 shall be included in the Memorandum of Lease reference in Section 26 above.

[Signatures appear on the following page.]

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed by their respective duly authorized representatives on the day and year first above written.

LESSEE:

CITYCENTRE I LLC, an Alabama limited liability company

By: _____ (SEAL)

Name: _____

Its: _____

LESSOR:

CITY OF HUNTSVILLE, ALABAMA, an Alabama municipal corporation

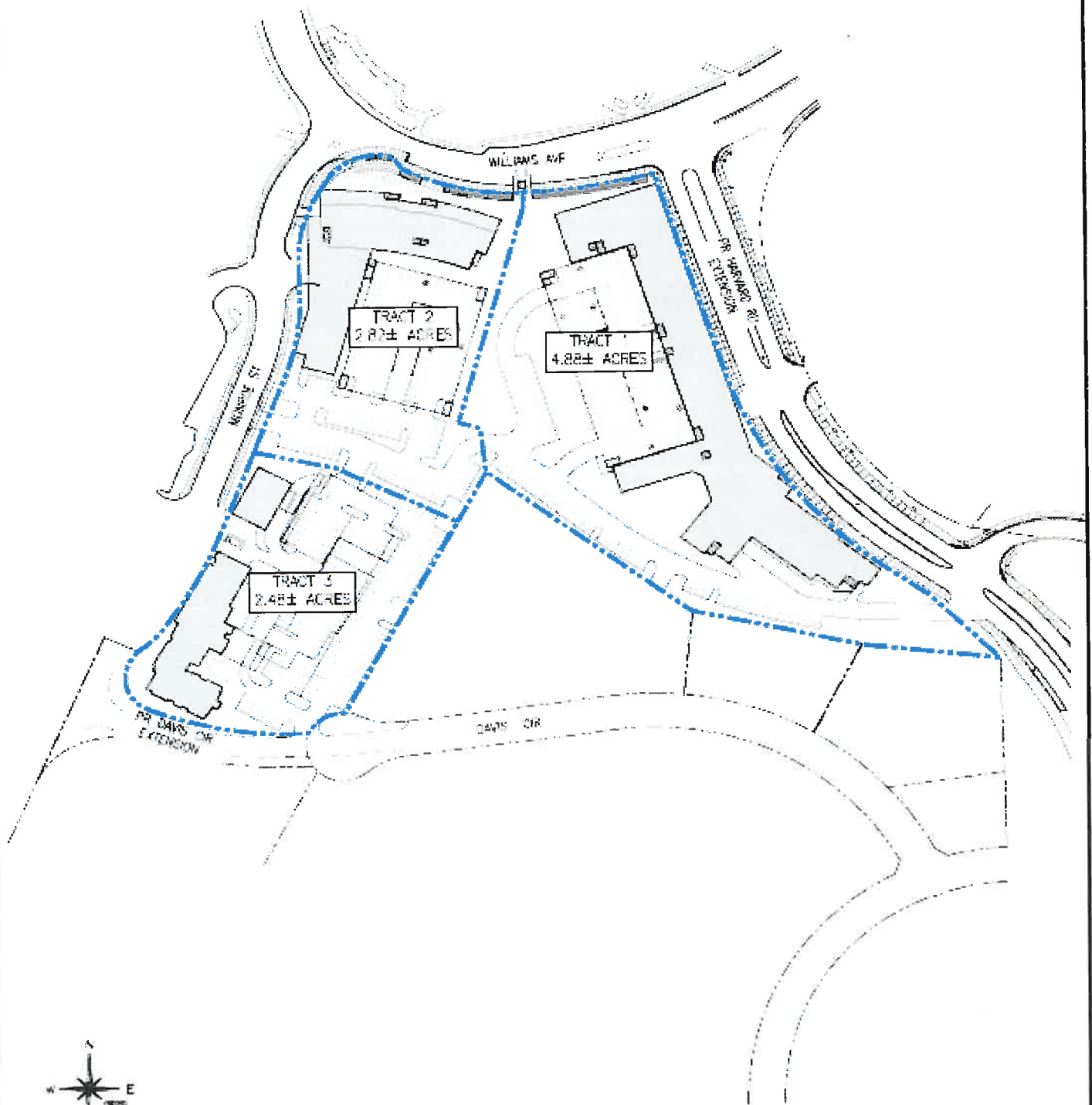
By: _____
Tommy Battle, its Mayor

EXHIBIT A

Depiction of Premises and Option Property

[See attached page]

PROPOSED CITY CENTRE



SCALE 1"=200'

EXHIBIT A-1

Legal Description of Premises

Legal Description of Tract 2 (CityCentre I Property)

ALL THAT PART OF SECTION 1, TOWNSHIP 4 SOUTH, RANGE 1 WEST OF THE HUNTSVILLE MERIDIAN, MADISON COUNTY ALABAMA MORE PARTICULARLY DESCRIBED AS FOLLOWS: \

COMMENCE AT THE NORTHEAST CORNER OF BLOCK 22 OF URBAN RENEWAL PROJECT ALA R-32, BIG SPRING AREA, HUNTSVILLE ALABAMA, AS RECORDED IN PLAT BOOK 8, PAGE 22-23, AS RECORDED IN THE OFFICE OF THE JUDGE OF PROBATE, MADISON COUNTY, ALABAMA; THENCE NORTH 90 DEGREES WEST FOR A DISTANCE OF 579.04 FEET TO THE POINT; THENCE NORTH 00 DEGREES EAST FOR A DISTANCE OF 48.59 FEET TO THE POINT OF BEGINNING OF THE FOLLOWING DESCRIBED PROPERTY:

THENCE FROM THE POINT OF BEGINNING NORTH 63 DEGREES 56 MINUTES 42 SECONDS WEST FOR A DISTANCE 180.00 FEET TO A POINT;

THENCE NORTH 77 DEGREES 49 MINUTES 03 MINUTES WEST FOR A DISTANCE OF 114.98 FEET TO A POINT ON THE EAST RIGHT OF WAY MARGIN OF MONROE STREET;

THENCE NORTH 21 DEGREES 25 MINUTES 08 SECONDS EAST FOR A DISTANCE OF 122.77 FEET ALONG SAID EAST RIGHT OF WAY MARGIN TO A POINT;

THENCE ALONG SAID EAST RIGHT OF WAY MARGIN ALONG A CURVE TO THE LEFT WITH A RADIUS OF 288.00 FEET AND AN ARC LENGTH OF 115.61 FEET, HAVING A CHORD BEARING AND DISTANCE OF NORTH 09 DEGREES 55 MINUTES 09 SECONDS EAST TO A POINT;

THENCE NORTH 01 DEGREES 34 MINUTES 49 SECONDS WEST FOR A DISTANCE OF 49.28 FEET ALONG SAID EAST RIGHT OF WAY MARGIN TO A POINT;

THENCE LEAVING SAID EAST RIGHT OF WAY MARGIN ALONG A CURVE TO THE RIGHT WITH A RADIUS OF 184.00 FEET AND AN ARC LENGTH OF 125.59 FEET, HAVING A CHORD BEARING AND DISTANCE OF NORTH 17 DEGREES 58 MINUTES 25 SECONDS EAST AND 123.17 FEET, TO A POINT;

THENCE ALONG A CURVE TO THE RIGHT WITH A RADIUS OF 78.13 FEET AND AN ARC LENGTH OF 105.55 FEET, HAVING A CHORD BEARING AND DISTANCE OF NORTH 68 DEGREES 01 MINUTES 32 SECONDS EAST AND 97.70 FEET, TO A POINT;

THENCE SOUTH 34 DEGREES 43 MINUTES 17 SECONDS EAST FOR A DISTANCE OF 20.97 FEET TO A POINT;

THENCE ALONG A CURVE TO THE LEFT WITH A RADIUS OF 310.20 FEET AND AN ARC LENGTH OF 155.74 FEET, HAVING A CHORD BEARING AND DISTANCE OF SOUTH 76 DEGREES 14 MINUTES 41 SECONDS EAST AND 154.11 FEET, TO A POINT;

THENCE NORTH 87 DEGREES 38 MINUTES 32 SECONDS EAST FOR A DISTANCE OF 12.38 FEET TO A POINT;

THENCE SOUTH 02 DEGREES 21 MINUTES 28 SECONDS EAST FOR A DISTANCE OF 21.22 FEET TO A POINT;

THENCE SOUTH 16 DEGREES 03 MINUTES 24 SECONDS WEST FOR A DISTANCE OF 327.35 FEET TO A POINT;

THENCE SOUTH 73 DEGREES 56 MINUTES 36 SECONDS EAST FOR A DISTANCE OF 31.09 FEET TO A POINT;

THENCE SOUTH 06 DEGREES 31 MINUTES 05 SECONDS EAST FOR A DISTANCE OF 64.41 FEET TO A POINT;

THENCE SOUTH 28 DEGREES 38 MINUTES 16 SECONDS WEST FOR A DISTANCE OF 82.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 2.82 ACRES, MORE OR LESS.

EXHIBIT B

Construction and Development Schedule

Tract #1 – Multi-Family

Pull construction permits: June 10, 2016

Commencement Date: August 10, 2016

Completion Date: Oct. 4, 2017

Parking Deck for Tract #1

Pull construction permits: August 10, 2016

Commencement Date: September 10, 2016

Completion Date: November 4, 2017

Tract #2 – Hotel No. 1 and Retail

Pull construction permits: January 11, 2016

Commencement Date: March 11, 2016

Completion Date: January 6, 2017

Parking Deck for Tract #2

Pull construction permits: March 11, 2016

Commencement Date: May 11, 2016

Completion Date: March 6, 2017

Culvert Work (by City)

Commencement Date: The day following the Effective Date (i.e., the expiration of the Inspection Period)

Completion Date: June 1, 2016

EXHIBIT C

Form of Estoppel Certificate

Re: Ground Lease dated _____, 2015 by and between **CITY OF HUNTSVILLE, ALABAMA**, an Alabama municipal corporation (hereinafter referred to as "**Lessor**"), and **CITYCENTRE I LLC**, an Alabama limited liability company (hereinafter referred to as "**Lessee**"), for premises comprised of approximately ___ acres located in Huntsville, Madison County, Alabama (the "Premises"), described on Exhibit A of the Memorandum of Lease dated _____ and recorded in Book ___, Pages ___, in _____, _____ (the "Lease").

REPRESENTATIONS BY LESSEE AND LESSOR

TO: _____

Ladies and Gentlemen:

The undersigned [Lessor/Lessee] certifies to the best of its actual knowledge, as of _____, 20__, the following:

1. The Lease is in full force and effect and has not been modified, amended, supplemented, or assigned, except as described above.
2. Annual Base Rent and other charges due Lessor under the Lease have been paid through **[INSERT DATE THROUGH END OF MONTH]** as set forth in the Lease, excepting only year-end reconciliations of amounts paid on account for the current accounting period. Lessee is currently paying monthly Base Rent in the amount of **[INSERT MONTHLY AMOUNT]** due and payable as set forth in the Lease. No rent has been paid more than one month in advance, except payments made on account of Lessee pursuant to the specific terms of the Lease.
3. [Lessee knows of no condition under the Lease which on the giving of notice or the passage of time or both would constitute a default under the Lease by Lessor and there are no claims, defenses or offsets which Lessee has against enforcement of the Lease by Lessor, except any credits or refunds due to Lessee resulting from the review or audit of any year end reconciliations.]

-or-

[Lessor knows of no condition under the Lease which on the giving of notice or the passage of time or both would constitute a default under the Lease by Lessee, and there are no claims, defenses or offsets which Lessor has against enforcement of the Lease by Lessee.]

4. The term of the Lease commenced on **[INSERT DATE]**; rent commenced on **[INSERT DATE]**; and the term expires on **[INSERT DATE]**.
5. Lessee is in possession of the Premises. Lessee has not filed or had filed against it a petition for bankruptcy under the bankruptcy laws of the United States and is not subject to any reorganization, insolvency, or other like proceedings.
6. All statements contained in this Estoppel Certificate are based on the knowledge of the signing officers below, without investigation. Nothing contained in this Estoppel Certificate will constitute or be deemed to constitute an amendment, modification or waiver of any term or condition of the Lease or any right or remedy of Lessee under the Lease, or arising in connection with the Lease, including all appurtenant covenants, restrictions or easements of record. In the event of any conflict between the Lease and this Estoppel Certificate, the Lease will control.
7. All capitalized terms will have the meanings set forth in the Lease, except as otherwise specifically defined in this Estoppel Certificate.
8. This Estoppel Certificate will be of no force or effect until both parties receive a fully executed original counterpart of this Estoppel Certificate.
9. Lessor acknowledges that Lessee will have the right to provide a copy of this Estoppel Certificate to Lessee's prospective lender and such lender will have the right to rely on Lessee's and Lessor's representations in this Estoppel Certificate in connection with a lending transaction. Lessee and Lessor also have the right to rely on the representations in this Estoppel Certificate.

The undersigned have executed this Estoppel Certificate on this ____ day of _____, 20__.

LESSEE: CITYCENTRE I LLC,
an Alabama limited liability company

By: _____
Name: _____
Its: _____

LESSOR: CITY OF HUNTSVILLE, ALABAMA,
an Alabama municipal corporation

By: _____
Name: _____
Its: _____

EXHIBIT D

Legal Description of Option Property

(The Option Tract)

ALL THAT PART OF SECTION 1, TOWNSHIP 4 SOUTH, RANGE 1 WEST OF THE HUNTSVILLE MERIDIAN, MADISON COUNTY ALABAMA MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF BLOCK 22 OF URBAN RENEWAL PROJECT ALA R-32, BIG SPRING AREA, HUNTSVILLE ALABAMA, AS RECORDED IN PLAT BOOK 8, PAGE 22-23, AS RECORDED IN THE OFFICE OF THE JUDGE OF PROBATE, MADISON COUNTY, ALABAMA;

THENCE NORTH 90 DEGREES WEST FOR A DISTANCE OF 579.04 FEET TO THE POINT; THENCE NORTH 00 DEGREES EAST FOR A DISTANCE OF 48.59 FEET TO THE POINT OF BEGINNING OF THE FOLLOWING DESCRIBED PROPERTY:

THENCE SOUTH 28 DEGREES 38 MINUTES 16 SECONDS WEST FOR A DISTANCE OF 317.46 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY MARGIN OF DAVIS CIRCLE;

THENCE ALONG A CURVE TO THE LEFT ALONG SAID RIGHT-OF-WAY MARGIN WITH A RADIUS OF 50.00 FEET AND AN ARC LENGTH OF 61.17 FEET TO A POINT;

THENCE LEAVING SAID DAVIS CIRCLE RIGHT-OF-WAY AND ALONG THE NORTH MARGIN OF THE PROPOSED DAVIS CIRCLE RIGHT-OF-WAY EXTENSION, ROADWAY CURRENTLY UNDER CONSTRUCTION, ALONG A CURVE TO THE RIGHT WITH A RADIUS OF 200.54 FEET AND AN ARC LENGTH OF 475.01 FEET, HAVING A CHORD BEARING AND DISTANCE OF NORTH 81 DEGREES 36 MINUTES 42 SECONDS WEST AND 199.05 FEET TO A POINT;

THENCE ALONG SAID NORTH MARGIN OF PROPOSED DAVIS CIRCLE RIGHT-OF-WAY EXTENSION NORTH 69 DEGREES 31 MINUTES 03 SECONDS WEST FOR A DISTANCE OF 19.16 FEET TO A POINT;

THENCE ALONG SAID NORTH MARGIN OF PROPOSED DAVIS CIRCLE RIGHT-OF-WAY EXTENSION ALONG A CURVE TO THE RIGHT WITH A RADIUS OF 50.00 FEET AND AN ARC LENGTH OF 90.95 FEET, HAVING A CHORD BEARING AND DISTANCE OF NORTH 17 DEGREES 24 MINUTES 30 SECONDS WEST AND 78.92 FEET TO A POINT ON THE EAST RIGHT-OF-WAY MARGIN OF MONROE STREET;

THENCE NORTH 34 DEGREES 42 MINUTES 02 SECONDS EAST FOR A DISTANCE OF 12.72 FEET ALONG SAID MONROE STREET EAST RIGHT OF WAY MARGIN;

THENCE ALONG A CURVE TO THE LEFT WITH A RADIUS OF 124.52 FEET AND AN ARC LENGTH OF 62.00 FEET, HAVING A CHORD BEARING AND DISTANCE OF NORTH 44 DEGREES 14 MINUTES 05 SECONDS EAST AND 61.36 FEET ALONG SAID MONROE STREET EAST RIGHT-OF-WAY MARGIN;

THENCE ALONG A CURVE TO THE LEFT WITH A RADIUS OF 563.14 FEET AND AN ARC LENGTH OF 145.73 FEET, WITH A CHORD BEARING AND DISTANCE OF NORTH 28 DEGREES 50 DEGREES 40 SECONDS EAST AND 145.32 FEET ALONG SAID MONROE STREET EAST RIGHT-OF-WAY MARGIN;

THENCE NORTH 21 DEGREES 13 MINUTES 30 DEGREES EAST FOR A DISTANCE OF 126.84 FEET ALONG SAID MONROE EAST RIGHT-OF-WAY MARGIN;

THENCE LEAVING SAID RIGHT-OF-WAY SOUTH 77 DEGREES 49 MINUTES 03 SECONDS EAST FOR A
DISTANCE OF 114.98 FEET TO A POINT;
THENCE SOUTH 63 DEGREES 56 MINUTES 42 SECONDS EAST FOR A DISTANCE OF 180.00 FEET TO
THE POINT OF BEGINNING AND CONTAINING 2.48 ACRES, MORE OR LESS.

EXHIBIT E

Prohibited Uses

The Premises may not be used for any of the following prohibited uses (collectively, “**Prohibited Uses**”):

1. Any use which would ordinarily constitute a public or private nuisance;
2. Any use which produces noxious, toxic, caustic or corrosive fuel or gas;
3. Any use which produces fire, explosion or other damaging or dangerous hazard (including storage, display or sale of explosives or fireworks); provided, however, the foregoing shall not prohibit (i) the operation of a propane sales facility in accordance with applicable law or (ii) the sale of firearms, ammunition or other explosive materials sold by a national sporting goods store so long as the same are stored, handled and sold in compliance with all applicable governmental laws;
4. Central laundry or dry cleaning plant (other than a dry cleaning drop-off facility which does not use dry cleaning fluids or similar chemicals or substances on site in connection with the dry cleaning of clothes);
5. Any assembling, manufacturing, industrial, distilling (not to prohibit so-called micro-brewing of beer), refining, smelting, agricultural or mining operation;
6. Any store selling drug paraphernalia;
7. Adult bookstore or any other establishment selling, distributing or exhibiting pornographic, obscene and/or adult materials including without limitation: magazines, books, movies, videos and photographs; and live models or dancers; provided, however, the foregoing shall not prohibit the operation of a typical grocery or supermarket or a typical drug store;
8. Massage parlors (provided, however, that the following facilities shall be permitted: therapeutic massage, upscale day spa and other facilities that are typically found in mixed use centers of similar quality and tenant mix to the Development, such as, but not limited to, Massage Envy or Spa Sydell);
9. Tattoo parlor, Bingo parlors, Billiard parlors or pawn shop;
10. Any mortuary, funeral home, crematorium, cemetery or similar facility;
11. Any lounge, night club, discotheque, dance hall, or gentlemen’s club;
12. Any flea market or second-hand thrift store;
13. Any carnival, amusement park or circus;

14. Any go-cart track;
15. Off-track betting sites or betting parlors;
16. Any business engaging in the sale of new or used mobile homes;
17. Any mobile home or trailer court, labor camp, or junk yard (except that this provision shall not prohibit the temporary use of construction trailers during any periods of construction, reconstruction or maintenance);
18. Any dumping of garbage or refuse, other than in enclosed receptacles or designated recycling facilities intended for such purpose;
19. Any auction operation or going out of business, relocation, bankruptcy or similar sales (unless pursuant to a court order);
20. Any church, synagogue, mosque or other place of worship;
21. Any deep discount retailer, such as Big Lots or Odd Lots, or dollar store such as Dollar General or Family Dollar; and
22. Any unlawful use.

EXHIBIT F

Depiction of Culvert Easement Area

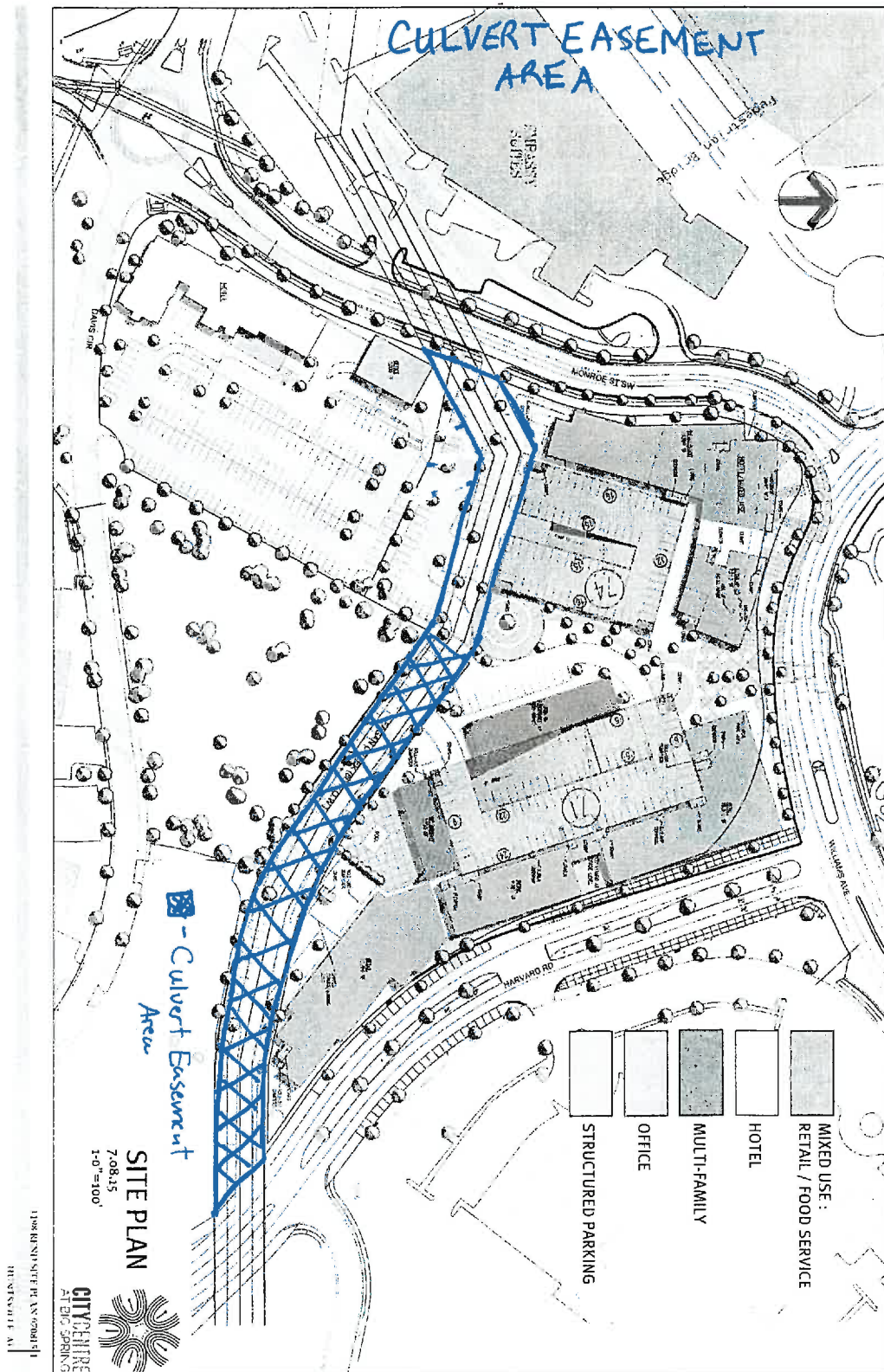


EXHIBIT G

Form of Lease Recognition Agreement

LEASE RECOGNITION AGREEMENT

THIS LEASE RECOGNITION AGREEMENT (this “**Agreement**”) is entered into this ____ day of _____, 20__ (the “**Effective Date**”) among **CITY OF HUNTSVILLE, ALABAMA**, an Alabama municipal corporation, with its principal office at 308 Fountain Circle, Huntsville, Alabama 35804, Attention: Mayor (“**Master Landlord**”), **CITYCENTRE I LLC**, an Alabama limited liability company, with its principal office at 4245 Balmoral Drive, Suite 204, Huntsville, Alabama (“**Landlord**”), and _____, with its principal office at _____ (“**Tenant**”).

RECITALS:

This Agreement is entered into with reference to the following facts:

- A. Master Landlord and Landlord are presently landlord and tenant, respectively, pursuant to a Ground Lease Agreement dated _____, 2015 (the “**Master Lease**”), covering the real property and improvements located in _____ Development, Huntsville, Alabama (the “**Development**”). A legal description of the Development is attached to this Agreement as **Exhibit A**.
- B. Landlord and Tenant are presently landlord and tenant, respectively, pursuant to a Lease Agreement dated _____, 20__ (the “**Lease**”), covering a portion of the real property and improvements in the Development (the “**Premises**”).
- C. Master Landlord, Landlord and Tenant desire set forth the rights and obligations of the parties with respect to the Premises, the Lease, and the Master Lease, as further set forth herein.

AGREEMENT

In consideration of their mutual covenants and agreements contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each party, Master Landlord, Landlord and Tenant hereby agree:

- 1. Master Landlord has received a copy of the Lease and consents to Landlord and Tenant entering into the Lease.
- 2. Master Landlord and Landlord represent and warrant to Tenant as of the Effective Date, to their respective knowledge:
 - (a) neither Master Landlord nor Landlord is in default under the Master Lease beyond any applicable notice and cure or grace periods; and

- (b) neither Master Landlord nor Landlord has sent to, or received from, the other a notice of default that has not been cured.
- 3. Landlord is directly and primarily responsible for performance of all obligations of (i) tenant under the Master Lease and (ii) landlord under the Lease. Master Landlord shall have no obligations under the Lease unless and until the expiration or termination of the Master Lease.
- 4. Tenant shall have the right, but not the obligation, to cure Landlord's default under the Master Lease in the event Landlord fails to do so pursuant to the terms of the Master Lease. Landlord agrees Tenant may offset from up to fifty percent (50%) of the monthly Base Rent coming due under the Lease all reasonable and actual costs, including reasonable attorneys' fees, incurred by Tenant in curing Landlord default.
- 5. Upon expiration or termination of the Master Lease:
 - (a) Master Landlord will not disturb Tenant's use of the Premises so long as Tenant is not in default under the Lease beyond applicable notice and cure periods.
 - (b) Tenant will attorn to Master Landlord as landlord under the Lease, and Master Landlord will accept Tenant's attornment.
 - (c) Master Landlord and Tenant will recognize the Lease as a direct lease between Master Landlord and Tenant and will be bound to each other under the provisions of the Lease; provided however, that Tenant is not obligated to pay Master Landlord any amounts due under the Lease until Tenant receives notice from Master Landlord that the Master Lease has expired or has been terminated; provided, further, however that Master Landlord shall not be: (i) liable for any act or omission of Landlord under the Lease; (ii) liable for the retention, application or return of any security deposit to the extent not paid over to Master Landlord; (iii) subject to any offsets or defenses which Tenant might have against Landlord; (iv) bound by any rent or additional rent which Tenant might have paid for more than the current month to Landlord, to the extent not received by Master Landlord; or (v) bound by any amendment or modification of the Lease made without Master Landlord's prior written consent, except to the extent expressly provided for in the Lease.
 - (d) If Tenant is in default under the Lease at the time the Master Lease expires or is terminated, Master Landlord will have the same remedies against Tenant that Landlord would have had against Tenant under the Lease if the Master Lease was still in effect.
- 6. Any notice required to be given to Master Landlord, Landlord or Tenant under the provisions of this Agreement shall be in writing and delivered personally, mailed by certified mail return receipt requested or sent by overnight courier to the appropriate

address listed in the preamble paragraph, or to any other address Master Landlord, Landlord or Tenant, as applicable, may furnish to each other in writing, in accordance with the terms of this Section 6. All notices given in accordance with the terms hereof shall be deemed received on the next business day if sent by overnight courier, on the third (3rd) business day if sent by certified mail return receipt requested, or when delivered personally or first refused for delivery.

7. Master Landlord, Landlord and Tenant acknowledge they and, if they so choose, their respective counsel have reviewed and revised this Agreement and the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party will not be employed in the interpretation of this Agreement.
8. This Agreement contains the entire agreement between Master Landlord, Landlord and Tenant with respect to the subject matter herein and may only be modified by written instrument signed by Master Landlord, Landlord and Tenant.
9. This Agreement inures to the benefit of Master Landlord, Landlord, Tenant and their respective successors and assigns and shall be governed in accordance with the laws of the State of Alabama.
10. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and taken together shall constitute one and the same document. This Agreement may be executed and delivered by facsimile or electronic signature with the same force and effect as of original signature pages have been delivered to each of the parties hereto.

[Signatures Appear on Following Page]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective duly authorized representatives on the day and year first above written.

MASTER LANDLORD:

CITY OF HUNTSVILLE, ALABAMA,
an Alabama municipal corporation

Witness:

Printed Name: _____

By: _____
Print Name: _____
Title: _____

Date: _____, 20__

LANDLORD:

CITYCENTRE I LLC,
an Alabama limited liability company

Witness:

Printed Name: _____

By: _____
Print Name: _____
Title: _____

Date: _____, 20__

TENANT:

Witness:

Printed Name: _____

By: _____
Name: _____
Title: _____

Date: _____, 20__

ROUTING SLIP CONTRACTS AND AGREEMENTS

Originating Department: Legal

Council Meeting Date: 8/13/2015

Department Contact: Peter Joffrion

Phone # 427-5026

Contract or Agreement: Ground Lease with CityCentre I

Document Name: Ground Lease between the City and CityCentre I

City Obligation Amount: 52,700 annually

Total Project Budget:

Uncommitted Account Balance:

Account Number:

Procurement Agreements

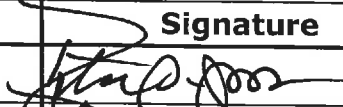
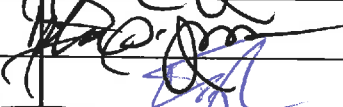
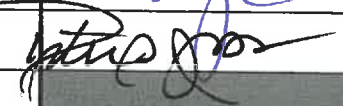
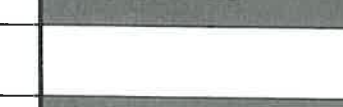
Not Applicable

Not Applicable

Grant-Funded Agreements

Not Applicable

Grant Name:

Department	Signature	Date
1) Originating		8-11-15
2) Legal		8-11-15
3) Finance		8/11
4) Originating		8-11-15
5) Copy Distribution		
a. Mayor's office (1 copies)		
b. Clerk-Treasurer (Original & 2 copies)		